

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

HARLAN EVANS,)	
)	
Petitioner,)	
vs.)	NO. CIV-08-0711-HE
)	
GREG PROVINCE,)	
)	
Respondent.)	

ORDER

Petitioner Harlan Evans, a state prisoner appearing *pro se*, filed this action pursuant to 28 U.S.C. § 2254 seeking federal habeas relief from his state court convictions. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Doyle W. Argo, who recommends that the petition be denied.

Petitioner has filed an objection to the Report and Recommendation, reasserting his claims that his state court proceedings did not offer a full and fair hearing on his Fourth Amendment claims and that he received ineffective assistance of appellate counsel. Both issues were thoroughly and appropriately addressed in the Report and Recommendation. The court adopts the Magistrate Judge's conclusions and recommendation for substantially the same reasons set out in the Report and Recommendation.¹ Petitioner has also requested a stay of proceedings to allow him to return to state court to pursue further his ineffective assistance of appellate counsel claim. Because the Oklahoma Court of Criminal Appeals has already affirmed the denial of post-conviction relief for petitioner's claims of ineffective


¹*This court reviews de novo objections to the Report and Recommendation.* 28 U.S.C. § 636(b)(1).

assistance of appellate and trial counsel, and as this court concludes that petitioner's ineffective assistance of appellate counsel claim lacks merit, no basis for further state proceedings has been shown.

Accordingly, the court **ADOPTS** the Report and Recommendation [Doc. #12]. The petition for writ of habeas corpus is **DENIED**. Petitioner's motion to stay the proceedings [Doc. #13] is also **DENIED**.

IT IS SO ORDERED.

Dated this 26th day of November, 2008.



JOE HEATON
UNITED STATES DISTRICT JUDGE